

MINUTES
Regular Meeting of the College Park City Council
Tuesday, August 14, 2012
7:30 p.m. – 8:53 p.m.

PRESENT: Mayor Fellows; Councilmembers Kabir, Wojahn (arrived at 7:33 p.m.), Catlin, Dennis, Stullich (left at 8:42 p.m.), Day, Afzali and Mitchell.

ABSENT: None.

ALSO PRESENT: Joe Nagro, City Manager; Janeen Miller, City Clerk; Suellen Ferguson, City Attorney; Chantal Cotton, Assistant to the City Manager; Bob Ryan, Director of Public Services; Terry Schum, Director of Planning; Miriam Bader, Senior Planner; Robert Manzi, Special Counsel.

Mayor Fellows opened the meeting at 7:30 p.m. and announced there would be an Executive Session immediately following the meeting to discuss a personnel matter. Councilmember Day led the pledge of allegiance.

Minutes: A motion was made by Councilmember Mitchell and seconded by Councilmember Day to approve the minutes of the July 9, 2012 Public Hearing on Rent Stabilization, the July 10, 2012 Regular Meeting, and the Confidential Minutes of the Executive Sessions on April 17, 2012, May 1, 2012, June 5, 2012 and July 3, 2012. The motion passed 7 – 0 – 0.

Announcements:

Councilmember Afzali thanked everyone who attended last night's "Experience and Enjoy College Park" event with County Executive Rushern Baker.

Amendments to the Agenda: None.

City Manager's Report: Mr. Nagro asked if Council had any conflicts with the proposed date of Wednesday, October 24 for the next Four Cities meeting, hosted by Greenbelt. No conflicts were reported. Night time noise enforcement will work every night from August 23 to September 8. He reminded everyone that the number for noise complaints is 240-487-3588.

Ms. Schum introduced the City's new senior planner, Miriam Bader.

Major Brewer, District 1 Commander, provided background on the prostitution sting operation that was conducted at local hotels in the last two weeks. They will follow up with the property owners.

Comments from the Audience on Non-Agenda Items: None.

Consent Agenda:

A motion was made by Councilmember Catlin and seconded by Councilmember Dennis to adopt the consent agenda, which consisted of the following items:

- 12-G-87 Approval of request for Mr. Craig Burrows to park a prohibited, oversize, vehicle at 9745 52nd Avenue (White Chevy Express, Safelite Autoglass Company owned, 8,500 – 10,000 lbs)**
- 12-G-88 Approval of request for Mr. Chris Jackson to park a prohibited, oversize, vehicle at 5009 Cree Lane (White Chevy 2500, Utility Body, Priority Engineering Services Company owned, 8,500 – 10,000 lbs)**
- 12-G-89 Approval of request for Mr. Peter Polesky to park a prohibited, oversize, vehicle at 5119 Kennebunk Terrace (White Ford E250, Blue Dot A/C-Heating-Plumbing Company owned)**
- 12-G-90 Renewal Of A Memorandum of Understanding With The University Of Maryland Department Of Transportation Services In The Amount Of \$6,000 To Allow Resident Ridership Of The Shuttle-UM, And Authorization For The City Manager To Sign The MOU**
- 12-G-91 Award Of Contract To The Joint Venture Of Floura Teeter / Whitney Bailey Cox & Magnani, LLC For Contract CP-12-07 Landscape Architecture Design Services For Hollywood Gateway Park In An Amount Not To Exceed \$77,315.**
- 12-G-92 Approval of a letter to Ronnie Gathers, Director, Department of Parks and Recreation, regarding Maintenance Assistance at Sunnyside Skate Park**

The motion passed 8 – 0 – 0.

Action Items:

- 12-G-93 Authorization To Appeal The District Council's Approval Of The Mixed Use Town Center Zone For The Cafritz Property**

A motion was made by Councilmember Stullich and seconded by Councilmember Day that the City Council authorize an appeal to the Prince George's County Circuit Court of the final decision of the District Council to approve zoning map amendment A-10018 for the Cafritz property with conditions.

Councilmember Stullich said the District Council took its final action on this case in July; the deadline to appeal the decision is Friday, August 17. The District Council order approved the rezoning of 35.7 acres in the Town of Riverdale Park from R-55 to MUTC and amends the 2004

approved Town of Riverdale Park mixed use town center zone development plan. The development would include up to 1.9M square feet of mixed use development including retail, office, residential and hotel.

Comments from the audience:

Jim McFadden, 4800 Calvert Road: He continues to have concerns about the traffic this project will cause on Route 1. Please appeal the decision and demand a reasonable and practical solution to Route 1. Until the bridge is built, there is no reason to believe it will be built.

Renee Domogauer, 6902 Carleton Terrace: She opposes the project and has difficulty separating her concerns about the quality of life issues from the legal issues. What good is a master plan if it can be ignored so easily by throwing out the name “Whole Foods.” What was the compelling reason to grant this exception? So many inappropriate elements: the density of 900 units, the increased traffic, burden on schools, environmental concerns, MUTC designation. She is in favor of College Park appealing this decision.

Eve Müller, 4710 College Avenue: She is against the Cafritz proposal in its current form based on legal and procedural issues. She is shocked by the indifference of County leaders to concerns of the community and the disregard to applicable zoning laws. Show courage and leadership tonight and appeal the County’s decision.

Carol Nezzo, 4600 Amherst: She cares about integrity and fairness. Many believe what is going on is not right or legal and just doesn’t make sense. Please appeal this for the City because we care and want to do what is right.

Leo Shapiro, 6907 Rhode Island Avenue: The decision whether to appeal will have enormous ramifications for the future. The process that led to this decision was riddled with legal and procedural problems. Dangerous to think if we give in now we will get some concessions; failing to appeal would send the message that we have given up. An appeal by the City will be more effective than an appeal by a handful of citizens. If you were concerned enough to oppose the rezoning you must now follow through with the appeal.

Adele Ellis, 4608 Beechwood: There has been a growing concern about how this project moved forward. The idea of using the MUTC zone was questionable: If Riverdale can say a section of woods sitting away from their town center separated by some commercial buildings was part of their town center and therefore should fall under this rezoning then by that standard anybody could rezone anything everywhere. It opens a Pandora’s Box for the City and County, and it would be proper for the City to take a principled stand by appealing the decision.

Alexa Bely, 6907 Rhode Island Avenue: Urges the Council to appeal the District Council’s decision in favor of the rezoning. She is troubled by many aspects of the process that led to their vote. Watching it unfold weakened her confidence in the integrity of many of our elected officials, but we now have the opportunity to address this. The City Council had the good sense to oppose the rezoning in the first place. The soundness of that decision became clearer during

the Planning Board and District Council hearings. Show that same wisdom now in voting to appeal the District Council's decision.

Mayor Vernon Archer, Town of Riverdale Park: He asked the Council to re-join Riverdale Park in an effort to make this into the best development it can be. Negotiations were most fruitful when Riverdale Park, University Park and College Park were working together to hammer out the best conditions. We now have strong conditions in place. It's not perfect. Consider not submitting an appeal so you can rejoin the two municipalities that are moving forward so we can go back to the table with a united municipal voice.

Council Member Jonathan Ebbeler, Town of Riverdale Park: He disagrees with the Master Plan argument as written by Councilman Campos; his research indicates it is in conformance with the Master Plan. It is very important now to have College Park at the table.

Mayor Fellows said he did not have an opportunity to vote last time but would have opposed the rezoning. He believes there are legal deficiencies in the action by the District Council and there are reasons to appeal to the Court. He believes an appeal by residents will go forward. However, he would vote to oppose the appeal because the City's most strategic move is to work with our neighboring municipalities to make sure this doesn't get built without our input.

Councilmember Stullich said the collaboration between the municipalities was very productive. College Park's earlier decision was based on a number of key factors, paramount is that the proposed density is excessive. If the developer had listened to early community input and proposed a more moderate development we would be in a different situation. The MUTC zone doesn't fit – the site is not an existing town center in need of redevelopment; it is a wooded site. This is not transit oriented development because it is not within walking distance of metro stations and would worsen traffic along Route 1. There were procedural flaws in the process at the Planning Board and the District Council. It is important when the County makes zoning changes such as this that the law be followed. The principled stand would be to continue to oppose this rezoning.

Councilmember Wojahn said we need to look at whether the laws were followed in considering whether to appeal the District Council's decision. The process was haphazard and some procedural rules weren't followed. The rules exist to make the process predictable and fair so that each side has an opportunity to have its case heard. This County has a long history of not following these procedural rules which hurts all of us. He supports the appeal.

Councilmember Kabir said this case is based on procedural matters. The best outcome of an appeal would be that the Circuit Court would send the case back to the Planning Board and the District Council but that they would vote again in favor. At the end this would cause delay. He is concerned about the cost involved and about the impact on our relationship with our neighboring cities. We have to weigh the pros and cons of an appeal and accept reality. He is against an appeal.

Councilmember Afzali asked it if matters who makes the appeal? Special Counsel Robert Manzi said it creates a higher profile if the City is involved, but the appeal would be a legal argument based on the record before the Planning Board and the District Council and the judge would decide the case on the law regardless of the plaintiff. Mr. Manzi outlined additional steps in the process where this will come back to the City. Councilmember Afzali said he is opposed to the Cafritz development and that the County process was flawed. But he will vote against the appeal because there is already going to be an appeal filed whether the City joins or not, we have other opportunities to reiterate our concerns, if this is remanded the likelihood that the County would change their vote is low, an appeal would cost \$25,000 - \$30,000, and appealing this won't do the City any good.

Councilmember Day said he supports the appeal.

Councilmember Catlin will oppose the appeal. He thought the City shouldn't have isolated itself from the other municipalities in the rezoning. There are probably procedural flaws because this was a complex case, but an appeal would only delay the inevitable which would only cause animosity which isn't good for anyone. We shouldn't be a roadblock in the process.

Councilmember Stullich says it is important to take a principled and consistent position. Private citizens have less resources than the City; we shouldn't abandon them. This is not a fair way to treat our residents. Don't make our citizens go up against powerful interests alone. Stick to the position that we had voted on previously. This is not a substantial expenditure.

Councilmember Afzali said the characterization that Councilmembers who don't vote to appeal are abandoning the residents is wrong – there are plenty of opportunities along the way to make our points.

Councilmember Mitchell asked about the time frame of the appeal process.

Roll Call Vote:

Aye: Wojahn, Dennis, Stullich, Day

Nay: Kabir, Catlin, Afzali, Mitchell

Mayor Tie Breaker: Nay

The motion to file an appeal fails 4 – 5 – 0.

12-G-94 Approval Of A Letter To The County With The City's Comments On the County's Draft 10-Year Solid Waste Management Plan

A motion was made by Councilmember Wojahn and seconded by Councilmember Afzali to send a letter to County Executive Baker and Council Chair Harrison regarding the county's draft ten year waste management plan.

Councilmember Wojahn said the letter requests that the county take more affirmative steps toward waste reduction in the county. The plan proposes some good steps such as studying a

food waste composting facility. The letter asks the County to work toward a zero waste policy and work with the city to develop ways to reduce waste.

The motion passed 8 – 0 – 0.

[Councilmember Stulich left the Council Chambers.]

12-R-15 Approval Of A Resolution Of The Mayor And Council Of The City Of College Park Approving The Fiscal Year 2013 Community Legacy Application Requesting \$180,000 For A Commercial Tenant Improvement Program

A motion was made by Councilmember Kabir and seconded by Councilmember Catlin that the City Council approve a resolution for the submission of a Fiscal Year 2013 Community Legacy application requesting a grant of \$180,000 for a Commercial Tenant Improvement Program.

Councilmember Kabir said that Community Legacy provides resources to assist local governments in realizing comprehensive community revitalization initiatives. It is intended as a flexible resource to fill key funding gaps not being met by other State or local financing and to position older communities for increased private investment. The purpose of the City's application is to provide an important tool to attract the type of retailers that many residents desire, reduce the number of vacant retail spaces, and fill gaps in the retail environment. The program will provide matching grants to small businesses for the costs associated with leasehold improvements including HVAC, electrical, plumbing, and windows. Grants will target locally-owned and independent businesses, specifically businesses that fill a void in the City's retail scene. Applications to the program will be reviewed by staff members of the Department of Planning, Community & Economic Development in conjunction with the Maryland Small Business Development Center. Applications will include detailed business plans, financial documentation, and lease terms. Funds are anticipated to provide assistance to approximately six to ten businesses.

There were no comments from the audience or from the Council.

The motion passed 7 – 0 – 0.

12-R-16 Approval Of A Resolution Of The Mayor And Council Of The City Of College Park, Maryland, To Amend The Homeownership Grant Program To Allow An Alternate Form Of Security In Certain Circumstances

A motion was made by Councilmember Wojahn and seconded by Councilmember Mitchell to adopt Resolution 12-R-16, which authorizes City staff, in certain circumstances, to accept a confessed judgment promissory note in lieu of recording the Declaration of Covenants and Conditional Repayment Agreement for Single Family Homes and Notice of Lien that is required of all applicants for a Homeownership Grant.

Councilmember Wojahn stated that the Homeownership Grant Program was launched in Fiscal Year 2006 to encourage owner occupied home ownership. Over time, the program has been expended to encourage City employees, certified police officers, firefighters and EMTs who work in Prince George's to make their home in the City, as well as the purchase of short sale and foreclosed homes. Participants must agree to live in the property for a minimum of five consecutive years. The maximum amount that can be awarded is \$5,000. To secure the City's requirements for the grant, each recipient is required to sign a Declaration of Covenants and Conditional Repayment Agreement for Single Family Homes and Notice of Lien, which is recorded against the property to be purchased, immediately following the recordation of the Deed for the property. In the recent past, some potential applicants have been unable to obtain financing for the purchase if a second lien, such as the City's Declaration of Covenants, is also to be recorded against the property. In order to enable otherwise qualified applicants to qualify for a grant, the Program will be amended to allow City staff the discretion to accept a confessed judgment promissory note in lieu of recording the Declaration of Covenants when financing would otherwise not be available.

There were no comments from the audience or the Council.

The motion passed 7 – 0 – 0.

12-O-07 Introduction Of Ordinance 12-O-07, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, Amending Chapter 34, "Elections", Article I, "General Provisions" §34-3, "Definitions", Article II, "Conduct Of Elections", §34-5, "Polling Places; Hours Of Voting", And Article III "Fair Election Practices", §34-15, "Campaign Finance Reports" To Extend Polling Hours, Allow For Electronic Filing Of All Campaign Finance Reports Subject To Certain Requirements, Standardize The Time By Which Campaign Finance Reports Must Be Filed, Allow Pre-Election Reports To Be Filed On The Eighth Or Ninth Day Preceding The Election And Require That Incomplete Or Inaccurate Reports Be Corrected Within Three Days Of Service Of Notice

A motion to introduce Ordinance 12-O-07 was made by Councilmember Wojahn and seconded by Councilmember Afzali. Mayor Fellows announced that the Public Hearing is scheduled for September 11 at 7:10 p.m.

12-CR-01 Introduction Of 12-CR-01, A Charter Resolution Of The Mayor And Council Of The City Of College Park, Maryland, Amending Article IV, "Voting And Elections" §C4-2, "Registration Of Voters" And §C4-5, "Petitions For Candidacy" To Change The Date On Which Voter Registration Closes And To Require That A Petition For Candidacy Be Filed Before 4:00 P.M. On The Date That The Form Is Due

A motion was made by Councilmember Mitchell and seconded by Councilmember Afzali to introduce 12-CR-01. Mayor Fellows announced that the Public Hearing is scheduled for September 11 at 7:20 p.m.

12-O-08 Introduction of Ordinance 12-O-08, An Ordinance Of The Mayor And Council Of The City Of College Park, Maryland, To Provide For A Special Assessment Against Certain Property Fronting On Those Improvements Undertaken By And Through The City Of College Park, Maryland, On Rhode Island Avenue And Having Been Designated As C.I.P. Project No. 045010

A motion was made by Councilmember Catlin and seconded by Councilmember Dennis to introduce Ordinance 12-O-08. Mayor Fellows announced that the Public Hearing on this ordinance will be held on Wednesday, September 12 at 7:00 p.m.

12-G-95 Appointments To Boards and Committees

A motion was made by Councilmember Kabir and seconded by Councilmember Wojahn to appoint Macrina Xavier to the Committee for a Better Environment. The motion passed 7 – 0 – 0.

COUNCIL COMMENTS:

Councilmember Mitchell said there would be a meet and greet with the Prince George's County interim school superintendent on August 30 from 6:30 – 8:30 at Northwestern High School.

Councilmember Afzali remarked on the many amazing deals that local businesses are offering during buy local/independent week, adding that parking in the garage is free this weekend.

Councilmember Wojahn announced that Curbside Cupcakes will vend their cupcakes at College Park Day this year.

Mr. Nagro brought to Council's attention the information memo from staff regarding FY 12 Rent Stabilization Fees. Without council objection, staff will proceed with the recommendation. OK to proceed.

COMMENTS FROM THE AUDIENCE: None.

Adjourn: A motion was made by Councilmember Dennis and seconded by Councilmember Afzali to adjourn the regular meeting and convene in an Executive Session to discuss a personnel matter. Council will not return to public session. Mayor Fellows adjourned the meeting at 8:53 p.m. with a vote of 7 – 0 – 0.

Janeen S. Miller, CMC
City Clerk

Date
Approved

Pursuant to §C6-3 of the College Park City Charter, at 7:00 p.m. on August 8, 2012 in the Council Chambers of City Hall, a motion was made by Councilmember Wojahn and seconded by Councilmember Mitchell to enter into an Executive Session for the following reasons:

G: To Consult with Counsel on a legal matter

The motion passed 6 – 0 – 0.

Present: Mayor Fellows; Councilmembers Kabir (arrived at 7:07 p.m.), Wojahn, Dennis, Catlin, Day, Afzali and Mitchell.

Absent: Councilmember Stullich was out of town but was on the telephone during a portion of the Executive Session.

Also Present: Joe Nagro, City Manager; Janeen Miller, City Clerk; Robert Manzi, Special Counsel; Chantal Cotton, Assistant to the City Manager; Steve Groh, Director of Finance; Terry Schum, Director of Planning.

Topics Discussed: Counsel advised the City Council about the Cafritz zoning decision and legal strategies that are available in responding to it.

Actions Taken: None.

Adjourn: A motion was made by Councilmember Afzali and seconded by Councilmember Day to adjourn the Executive Session, and with a vote of 7 – 0 – 0, Mayor Fellows adjourned the meeting at 7:31 p.m.

Pursuant to §C6-3 of the College Park City Charter, at 10:54 p.m. on August 8, 2012 in the Council Chambers of City Hall, a motion was made by Councilmember Afzali and seconded by Councilmember Wojahn to enter into an Executive Session for the following reasons:

G: To discuss a personnel matter.

The motion passed 7 – 0 – 0 and the Executive Session convened at 11:02 p.m.

Present: Mayor Fellows; Councilmembers Kabir, Wojahn, Dennis, Catlin, Day, Afzali and Mitchell.

Absent: Councilmember Stullich.

Also Present: None.

Topic Discussed: The City Manager's performance evaluation.

Actions Taken: None.

Adjourn: A motion was made by Councilmember Mitchell and seconded by Councilmember Wojahn to adjourn the Executive Session, and with a vote of 7 – 0 – 0, Mayor Fellows adjourned the Executive Session at 11:05 p.m.

Pursuant to §C6-3 of the College Park City Charter, at 8:53 p.m. on August 14, 2012 in the Council Chambers of City Hall, a motion was made by Councilmember Dennis and seconded by Councilmember Afzali to enter into an Executive Session for the following reasons:

G: To discuss a personnel matter.

The motion passed 7 – 0 – 0 (Councilmember Stullich was not present for the vote.)

Present: Mayor Fellows; Councilmembers Kabir, Wojahn, Dennis, Catlin, Stullich, Day, Afzali and Mitchell.

Absent: None.

Also Present: Joe Nagro, City Manager.

Topic Discussed: The City Council conducted the City Manager's performance evaluation.

Actions Taken: None.

Adjourn: A motion was made by Councilmember Afzali and seconded by Councilmember Wojahn to adjourn the Executive Session, and with a vote of 8 – 0 – 0, Mayor Fellows adjourned the Executive Session at 10:15 p.m.